



Department of Corrections

ADMINISTRATIVE BULLETIN

Subject: **SEXUAL HARASSMENT POLICY**

Number:

02/02

Date Issued:

May 13, 2002

Cancelled Effective:

Policy

The California Department of Corrections (CDC) is committed to providing a workplace in which all individuals are treated with respect and professionalism. Consistent with this commitment, it is the policy of CDC to provide a workplace that is free from all forms of discrimination and harassment, including sexual harassment. Under this Sexual Harassment policy, CDC employees are prohibited from engaging in sexual behavior that:

- Rises to the level of sexual harassment in violation of Title VII of the Civil Rights Act of 1964 and the Fair Employment and Housing Act.
- Is unprofessional and disrespectful; and, while not unlawful, may contribute to a hostile work environment.

This Sexual Harassment policy applies to conduct that occurs in any location that is operated by CDC or considered a workplace of any CDC employee, as well as any location that can reasonably be regarded as an extension of the workplace, such as at any off-site social or business function, or any other non-CDC facility where CDC business is being conducted. Further, this policy applies to all work-related conduct, including conduct that occurs off-duty, if such conduct may negatively affect the work environment.

Consequences of Violations

Because all forms of sexual harassment are unprofessional and disrespectful, and may damage an individual's career and well being, CDC will strictly enforce this policy. Any employee, who violates this policy, even if such conduct does not violate State or federal law, will be subject to appropriate corrective and/or disciplinary action, up to and including, termination from State service, regardless of job level or classification. Separate from any action taken by CDC, violators should be aware that his or her conduct may result in personal civil liability.

To the extent that the above behaviors are exhibited by non-CDC employees; including, but not limited to, volunteers, interns, applicants for employment, contractors and other third parties, CDC will apply the principles of this policy to take whatever action is necessary to implement consequences for past behaviors, and prohibitions against future behaviors prohibited by this policy.

Retaliation is Prohibited

The Sexual Harassment policy prohibits CDC employees from engaging in any act of retaliation or reprisal against individuals who claim in good faith a violation of the Sexual Harassment policy, pursue such claims, or cooperate in any way in the investigation of such claims, regardless of the outcome of any such investigation. Any individual who engages in acts of



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retaliation or reprisal in violation of the Sexual Harassment policy will be subject to appropriate corrective and/or disciplinary action, up to and including termination from State service, regardless of job level or classification.

Purpose

The purpose of this Administrative Bulletin (AB) is to provide staff with the revised policy on Sexual Harassment.

Conduct that Violates the Sexual Harassment Policy

Sexual harassment generally is defined under State and federal law as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature that interferes with work performance by creating an intimidating, hostile, or offensive work environment.

Such conduct may constitute sexual harassment if:

- Submission to the conduct or communication is made either explicitly or implicitly a term or condition of employment.
- Submission to or rejection of the conduct or communication is used as a basis for employment or service decisions affecting the individual.
- The conduct or communication has the potential to affect an individual's work performance negatively and/or create an intimidating, hostile, or offensive work environment.

Examples of conduct that violates this policy include, but are not limited to:

- Unwelcome sexual advances or sexual pressure.
- Demands for sexual favors in exchange for employment benefits, whether express or implied.
- Making or threatening reprisals after a negative response to sexual advances.
- Verbal conduct of a sexual nature, such as derogatory or demeaning comments, slurs, sexually explicit jokes, comments about an individual's body or physical appearance, suggestive or obscene remarks, or practical jokes.
- Physical conduct such as leering, sexual gestures, impeding or blocking movements, pinching, grabbing, patting, intentionally brushing up against another individual, rape, or assault.
- Visual conduct of a sexual nature, such as displaying sexually-suggestive objects, cartoons, pictures, or posters.
- Posting, sending, or downloading derogatory, or demeaning materials of a sexual nature, or sexually suggestive or explicit materials in any form by any means of transmission, including facsimile, electronic mail, or the Internet.



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Conduct in violation of this policy may be aimed against a particular individual or individuals of the opposite or same sex as the individual(s) engaging in the conduct.

Responsibilities of Supervisors and Managers

Supervisors and managers are responsible for maintaining standards that promote a work environment free from discrimination, harassment, retaliation, and unprofessional or disrespectful conduct. Managers and supervisors must:

- Adhere to and enforce this policy.
- Regardless of how the information is presented to the supervisor/manager, either at the work location or off-site, a telephone call at home, etc., the supervisor must take immediate and appropriate corrective action to stop conduct that violates this policy (regardless of the employee's desire to keep the issue confidential).
- Take pro-active steps to prevent unprofessional or disrespectful conduct.
- Ensure that employees under their supervision and management have received a copy of this policy and attend mandated training.
- Advise their employees of their rights and of the process for filing an Equal Employment Opportunity (EEO) complaint.
- Notify verbally his or her direct supervisor and the local EEO Coordinator, immediately upon becoming aware of conduct that may violate this policy.
- Document the discussion with the employee and submit it in writing to the EEO Coordinator within five working days from the date that the employee informed the supervisor of the violation.


Consequences

Failure by a supervisor or manager to adhere to the above responsibilities, will result in appropriate corrective and/or disciplinary action, up to and including termination from State service, regardless of job level or classification.

Responsibilities of Employees

All CDC employees must:

- Adhere to this policy.
- Refrain from engaging in, condoning, tolerating, or leaving uncorrected conduct that violates this policy.
- Report any violations of this policy by making a formal complaint or informal report as described below.
- Cooperate with any investigation regarding a violation of this policy.
- Attend training as mandated by the Director.

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It should be understood that failure to utilize CDC's internal procedures to report violations of this policy will hinder CDC's ability to correct any violation.

Consequences

Any employee who is found to have violated this policy, even if such conduct does not violate State or federal law, will be subject to appropriate corrective and/or disciplinary action, up to and including termination from State service, regardless of job level or classification. In addition, individuals may be held personally liable for their conduct.

The Complaint Process

Informal Complaints

If an employee believes that a violation of this policy has occurred, he or she must (unless he or she is filing a formal complaint) make an informal report of this violation to his or her supervisor, an EEO Counselor, the local EEO Coordinator, or any other CDC supervisor or manager. The individual to whom the violation has been reported will take the necessary and appropriate action to assist the employee in resolving the immediate need to prevent any further violations, and to ensure appropriate consequences for the past violation(s).

Formal Complaints

If an employee is not satisfied with the results of the informal process or decides to bypass the informal process, a formal written discrimination complaint (CDC Form 693, Discrimination Complaint Guide) must be filed with the local EEO Coordinator, or the Discrimination Investigation Unit. A formal complaint may also be filed by calling the EEO hotline at 1-800-272-1408.

No employee is required to contact his or her direct supervisor first to report conduct believed to be in violation of this policy. An individual seeking to report a violation of this policy may utilize any of the above listed options.

Note: An employee is not required to confront the person(s) engaged in the conduct believed to be in violation of this policy at any time before or after filing a complaint.



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Please inform all concerned persons of this AB, which shall remain in effect until incorporated into Department Operations Manual, Chapter 3, Article 1, Equal Employment Opportunity. Any inquiries regarding this bulletin should be directed to Marilyn Pearman, Assistant Director, EEO, at (916) 323-1283.

EDWARD S. ALAMEIDA, JR.
Director
Department of Corrections